UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,906	01/05/1998	THEODORE D. WUGOFSKI	450.196US1	8339

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ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/002,906	WUGOFSKI ET AL.
	Examiner	Art Unit
	SON P. HUYNH	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>25 January 2008</u>.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-12,19-29 and 34-51</u> is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-12,19-29 and 34-51</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20080421

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed January 25, 2008 regarding claims 1-12, 19-

29, 34-51 have been fully considered but they are not persuasive.

Applicant argues Hendricks patents do not teach add logical channels to a

favorite list without user intervention because Hendricks discloses "a responsive

method of suggesting programs or channels" in which "program selections can

be responsive to information gathered from inquiries" entered by the user (page

13, paragraph 3 - page 14, paragraph, paragraph 1). This argument is

respectfully traversed.

The Examiner agrees that Hendricks discloses "responsive method of

suggesting programs or channels". However, this is just one of the methods of

suggesting programs or channels. In addition to "responsive method", Hendricks

also discloses intelligent methods and methods which integrate both responsive

and intelligent methodologies (see include, but are not limited to, Hendricks

Patent No. 5,798,785: col. 29, lines 1-43). In intelligent method, the set top

terminal can literally "learn" to suggest appropriate programs or channels for a

viewer. The viewer's activities are gathered and stored by the set top terminal

unbeknownst to the subscriber. A simple example is the set top terminal

"learning" which channels are a subscriber's favorite channels...(see include, but

are not limited to, Hendricks Patent No. 5,798,785: col. 29, lines 1-43). Hendricks

further discloses the CAP (computer assistant Program) automatically (without

packager intervention) access the MII 400 and the EIS (including gathered

information using "learning" mode/intelligent method discussed above) to obtain

necessary decision making information on transponder allocation (see include

but are not limited to, Hendricks Patent No. 6,539,548: col. 32, lines 29-62).

Thus, the logical channel (e.g., channel number or virtual channel) is added to a

favorite channel list without user intervention (subscriber's favorite channel is

provided to the subscriber using intelligent method and learning mode with

computer software where the information is gathered unbeknownst to the

subscriber).

Applicant further argues Hendricks patents do not disclose "means for

identifying" of claim 1 is not inherent because Hendricks discloses the search tool

of Hendricks is not used to populate a favorite channel list, but rather is used as

a responsive method of suggesting programs or channels (pages 14-15). This

argument is respectfully traversed.

It is noted that claim 1 does not recited the search tool is used to populate

a favorite channel list.

As discussed above, Hendricks discloses viewer's activities are gathered

unbeknownst to the subscribers and subscriber's favorite channel is provided to

the subscriber using intelligent method and/or computer software.

Hendricks further discloses microprocessor(s) for control operations of the delivery system; only channels and/or programs associated with particular theme such as movies, sports, etc. in different timeslot such as next six hours, next seven days, etc. are displayed in response to user specified theme (see include, but are not limited to, figures 32a-32e, col. 32, lines 35-47; Patent No. 5,798,785: col. 28, line 66-col. 33, line 57, col. 35, line 5-col. 37, line 42, figures 11-12b, 13; Pat. No. 5,990,927: col. 33, line 25-col. 34, line 33). Thus, Hendricks must discloses "means for identifying" (e.g., microprocessor) so that only channel which related to the user specified theme such as movie, sports, etc.... is provided for display to the user according to predetermined time slots.

If Hendricks does not disclose this feature, how can the channel and/or programs are arranged to display according to a specified theme such as sports, movies, etc. in particular time slot?

For the reasons given above, rejections on the claims are analyzed as discussed below.

Claims 13-18, 30-33 have been canceled.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-6, 19-29, 34-40, 43-48, 50-51 are rejected under 35

U.S.C. 102(e) as being anticipated by Hendricks et al. (US 6,539,548).

Note: US 5,798,785 is continuation of Ser. No. 08/160,282 (Pat. No.

5,659,350; CIP of applications: 07/991,074; 08/160,280 (Pat. No. 5,600,364);

08/160,281 (Pat. No. 5,798,785); 08/160,193 (Pat. No. 5,734,853); 08/160,194

(Pat. No. 5,990,927); 08/160,283 (Pat. No. 5,682,195); 08/160,280 (Pat.

No.5,600,364). These applications are incorporated by reference (col. 1, lines 5-

30). All the applications incorporated by references in their entireties in Patent

No. 6,539,548 are treated as part of the specification of patent No. 6,539,548).

Regarding claim 1, Hendricks discloses a computerized system for managing

favorite channels (e.g., favorite channels, most often watched channels) based

on a user specified theme (e.g., movies, sports, etc.) – see include, but are not

limited to, figures 32g-32h, 35a; Pat. No. 5,798,785: col. 28, line 64-col. 33, line

65, figures 11a-12b and discussed in the "response to Arguments" above), the

computerized system comprising:

        means for selecting predetermined keywords for the user specified theme

(e.g., user input device for selecting keywords for user specified theme such as

movies, sports, news, etc. – see include, but are not limited to, Pat. No.

5,798,785: figures 11a-12b, col. 29, line 1-col. 30, line 64);

one or more favorite channel lists (e.g., favorite channels and/or most

often watched channels).

Hendricks further discloses the user accessing a specific channel by

entering the actual channel number to make selection (col. 12, line 59-4)...menu

channel selections with channel numbers – see figures 25a-26. Service database

file 503 contains service records with each record representing an available

service. Virtual channel are non existent channels which are mapped ... Services

are then mapped into local head end channels...(col. 28, line 66-col. 29, line 24,

figures 25-26). Thus, the favorite channel lists is inherently comprising one or

more logical channels (e.g., channel number, or virtual channel) relating to the

user specified theme (news, sports, movies, etc.) so that when a channel number

is entered via user input, the tuner is tuned to corresponding broadcast channel;

wherein the computerized system identifies the logical channels (e.g.,

channel number, or virtual channel) showing an event of the user specified

theme and automatically adds each of the logical channels to the favorite

channel list without user intervention (add/suggest each of the favorite channel

/most often watched channel into the list according to "learning" method, or user

profile information– see include, but are not limited to, figures 25a-26, 32g-32h,

35a; Pat. No. 5,798,785: col. 28, line 66-col. 30, line 50, figures 11a-12d and

discussion in "Response to Arguments" above);

means (e.g., microprocessor) for identifying the one or more logical

channels which relate to the user specified them by detecting a match of the

predefined keywords of the user specified theme, the identifying being based on

programming constrained within a predetermined number of timeslots ahead of a

current time (e.g., programming within next six hours, next seven days, etc. see

include, but are not limited to, figures 32a-32e; Pat. No. 5,798,785: col. 28, line

66-col. 33, line 57, col. 36, lines 1-66, figures 11-12b, 13; Pat. No. 5,990,927: col.

33, line 25-col. 34, line 33 and discussion in the "Response to Arguments"

above);

a favorites database for storing one or more favorite channel lists (see

include, but are not limited to, col. 33, lines 15-49).

Regarding claim 2, Hendricks further discloses the system comprising an EPG

content database storing a plurality of events available on one or more television

channels for a period of time (see include, but are not limited to, figures 32a-32e;

Pat. No. 5,798,785: figure 8, 10-14, col. 30, lines 5-50; Pat. No. 5,990,927: col.

33, line 25-col. 34, line 33; Pat. No. 5,600,364: figures 11-13).

Regarding claim 3, Hendricks further discloses the user specified theme

corresponds to a theme field of the events in an EPG content database (see

include, but are not limited to, figures 10, 14-16, 23a-23b; Pat. No. 5,798,785:

figures 8, 11a,11d, col. 12, lines 55-60, col. 20, lines 6-45, col. 31, lines 34-39;

Pat. No. 5,600,364: col. 30, line 60-col. 31, line 8).

Regarding claim 4, Hendricks discloses the system as discussed in the rejection

of claim 3. Hendricks further discloses an EPG data service (e.g., network

controller, microprocessor, signal processor) for managing the EPG content

database, the EPG data service providing functions for loading electronic

program guide type data from one or more data services (see include, but are not

limited to, figures 3-13; Pat. No. 5,798,785: figures 3-4, 6, 8; Pat. No. 5,600,364:

figures 4-5,7,11-15).

Regarding claim 5, Hendricks discloses the system as discussed in the rejection

of claim 1. Hendricks further discloses the system further comprising a favorite

service providing one or more user interface and a plurality of management

functions for each one of the favorite channel lists (e.g., select to tune to a

channel, program, or display favorite channel list, etc.) – see include, but are not

limited to, figures 19-22: Pat. No. 5,798,785: figures 11-14, col. 33, lines 14-34).

Regarding claim 6, Hendricks discloses the system as discussed in the rejection

of claim 3. Hendricks further discloses the managing functions include at least

one function selected from the group of functions consisting of: adding a favorite

event to one of the favorite channel lists, selecting a favorite event from one of

the favorite channel lists (see include, but are not limited to, Pat. No. 5,798,785:

figures 12a-12b, col. 29, lines 25-48, col. 33, lines 14-49).

Regarding claim 19, the limitations of the method that correspond to the limitation

of the system of claim 1 are analyzed as discussed with respect to the rejection

of claim 1, wherein the limitation of logical channel identifying are updated

according to a predetermined updated frequency (see include, but are not limited

to, Pat. No. 5,798,785: col. 25, lines 35-57, col. 29, lines 25-48, col. 35, lines 5-

60).

Regarding claim 20, Hendricks discloses a method as discussed in the rejection

of claim 19. Hendricks further discloses matching one or more event sub-themes

(e.g., college football, comedy, etc.) from an EPG content database to the user

specified theme (e.g., sports, movies) – see include, but are not limited to, Pat.

No. 5,798,785: figures 11a-14, col. 25, lines 35-41; Pat. No. 5,659,350: col. 35,

lines 52-60).

Regarding claim 21, Hendricks discloses a method as discussed in the rejection

of claim 19. Hendricks further discloses matching one or more generic event sub-

themes from an EPG content database to the user specified theme (e.g., college

football, comedy, etc.) from an EPG content database to the user specified

theme (e.g., sports, movies) – see include, but are not limited to, Pat. No.

5,798,785: figures 11a-14, col. 25, lines 35-41; Pat. No. 5,659,350: col. 35, lines

52-60).

Regarding claim 22, Hendricks discloses a method as discussed in the rejection

of claim 19. Hendricks further discloses the logical channels identified during the

step of identifying depend on the update frequency which is included in the EPG

content database and the number of time slots included in the favorite channels

lists – see include, but are not limited to, (see include, but are not limited to, Pat.

No. 5,798,785: col. 25, lines 35-57, col. 29, lines 25-48, col. 35, lines 5-60; Pat.

No. 5,990,927: col. 33, line 24-col. 34, line 33; Pat. No. 5,600,364: figures 11-15).

Regarding claim 23, Hendricks further discloses matching one or more words in

an event description from the EPG content database to the user-specified theme

(see include, but are not limited to, Pat. No. 5,798,785: col. 30, line 34-col. 31,

line 40).

Regarding claim 24, the limitations correspond to the limitations of claim 1, and

are analyzed as discussed with respect to the rejection of claim 1, wherein the

claimed "processor" is interpreted as microprocessor or signal processor or

network controller; the computer readable medium is interpreted as ROM, RAM,

or storage device, etc. (see include, but are not limited to, Pat. No. 5,798,785:

figures 4-10A).

Regarding claims 25-29, the limitations of a computer readable medium that

correspond to the limitations of the method as claimed in claims 19-23 are

analyzed as discussed with respect to the rejection of claims 19-23.

Regarding claim 34, Hendricks discloses updating program guide information in

abstract database including channel information. Hendricks also discloses the

program guide information is assigned with timeslot (e.g., time, date, or year).

The favorite program channel or most often watched channels are changed

depends on time (see include, but are not limited to, Pat. No. 5,798,785: col. 12,

lines 54-63, col. 20, lines 1-56, col. 25, lines 35-41, col. 29, lines 25-67, col. 31,

lines 57-63, col. 33, lines 15-49, col. 35, line 44-60, col. 36, lines 57-67; Pat. No.

5,600,364: figures 13,18,21-22, col. 33, lines 13-37; US 6,539,548: col. 16, line

15-col. 17, line 6, col. 22, lines 15-33, 23, lines 47-50, col. 28, lines 36-52, col.

36, lines 13-18, col. 48, lines 15- 44,. As a result of updating/changing of

program guide information based on time, the logical channels are updated at

least once per timeslot (e.g. hourly, daily, monthly, or seasonal, etc.).

Regarding claim 35, Hendricks further discloses the timeslot is one-half hour in

length (see include, but are not limited to, figure 32d, col. 19, line 30-col. 20, line

16).

Regarding claim 36, Hendricks further discloses the predetermined number of

timeslots is at least several hours in duration (see include, but are not limited to,

figures 32a-32d, pat. No. 5,798,785: figures 11a-11e).

Regarding claim 37, Hendricks further discloses the means for identifying

comprises a set of predetermined keywords (e.g., movies, sports, actor names,

etc.) that may be selected for use in defining the user specified theme (see

include, but are not limited to, figures 25a-27; Pat. No. 5,798,785: figures 11a-

11e, col. 30, lines 25-64, col. 31, lines 34-63).

Regarding claim 38, Hendricks further discloses means (e.g., network controller,

signal processor, or microprocessor, etc.) for updating the one or more favorite

channel lists to include only those of the one or more logical channels that relate

to the user specified theme selected from the programming constrained within

the predetermined number of timeslots ahead of the current time (e.g., next six

hours, next seven days, etc. – see include, but are not limited to, figures 3-13,

23a-23b, 25a-26, 32a-32c).

Regarding claim 39, Hendricks further discloses the predetermined keywords are

direct broadcast satellite (DBS) content descriptors (program control information

including keywords such as movies, sports, actor name, etc. are broadcast over

DBS (see include, but are not limited to, col. 18, lines 63-col. 19, line 5, figure 2).

Regarding claim 40, Hendricks further discloses one or more logical channels are

identified to relate to the user specified theme by the match of the predetermined

keywords (e.g. movies, sports, actor, network name, etc.) independent of a

number of times the one or more logical channel have been viewed (see include,

but are not limited to, figures 19, 23a-23b, 25b-25c, Pat. No. 5,798,785: figures

11a-11e, col. 30, line 40-col. 31, line 62, col. 33, lines 14-48).

Regarding claims 43-48, 50-51 the additional limitations as claimed correspond

to the additional limitations as claimed in claims 34, 39-40, and are analyzed as

discussed with respect to the rejection of claims 34, 39-40.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5.   Claims 7-12, 41-42, 49 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hendricks in view of Kostreski (US 5,734,589).

Regarding claim 7, Hendricks discloses the computerized system as discussed in

the rejection of claim 1. However, Hendricks does not explicitly disclose a

channel map service for determining a physical channel number and a

corresponding physical device for each one of the logical channels.

        Kostreski discloses a channel map service for determining a physical

channel number and a corresponding physical device (e.g., device of network)

for each one of the logical channels (SEL channels) – see include, but are not

limited to, figure 5, col. 28, line 25-col. 30, line 33). Therefore it would have been

obvious to one of ordinary skill in the art at the time the invention was made to

modify Hendricks with the teaching as taught by Kostreski in order to improve

convenience for user to access a desired channel.

Regarding claim 8, the limitations that correspond to the limitations of claims 1

and 7 are analyzed as discussed with respect to the rejection of claims 1 and 7.

Hendricks further discloses display screen configured to show the identified

logical channels (see include, but are not limited to, figures 25a-25b, 32b,19);

application user interface to allow a user to access the computerized system (see

include, but are not limited to, figures 3-25b); Hendricks further discloses

electronic program guide content service for determining what is programmed on

the logical channel (once the logical channel is selected, associated physical

channel is tuned to – see include, but is not limited to, col. 12, line 60-col. 13, line

14; col. 35, line 20-65). Kostreski discloses calling channel map services to

determine the corresponding physical channel and physical device (access

channel map service to determine the channel network associated with the

selected channel number – see include, but are not limited to, figure 5, col. 28,

line 25-col. 30, line 33).

Regarding claims 9-10, 12, 41-42, 49 the additional limitations correspond to the additional limitations of claims 7, 6, 2, 39-40, 34 and are analyzed as discussed with respect to the rejection of claims 7, 6, 2, and 39-40,34.

Regarding claim 11, Hendricks in view of Kostreski discloses the computerized system as discussed in the rejection of claim 8. Hendricks further discloses a favorite database for storing one or more favorite channel lists (see include, but are not limited to, Pat. No. 5,798,785: col. 33, lines 15-49).

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bedard (US 5,801,747) discloses method and apparatus forcreating a television viewing profile.

Chor et al. (US 6,141,003) discloses channel bar user interface for an entertainment system.

Alexander et al. (6,177,931) discloses systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information.

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to SON P. HUYNH whose telephone number is

(571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331.

The fax phone number for the organization where this application or proceeding

is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/   April 21, 2008
Primary Examiner, Art Unit 2623